

Senate Study Bill 1131 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON RAGAN)

A BILL FOR

1 An Act relating to record checks of prospective and current
2 health care employees and certain students.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135C.33, subsection 2, Code 2013, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *Ob.* (1) If a person being considered for
4 employment, other than employment involving the operation
5 of a motor vehicle, has been convicted of a crime listed in
6 subparagraph (2) but does not have a record of founded child or
7 dependent abuse and the licensee has requested an evaluation
8 in accordance with paragraph "a" to determine whether the crime
9 warrants prohibition of the person's employment, the licensee
10 may employ the person for not more than sixty calendar days
11 pending completion of the evaluation.

12 (2) Subparagraph (1) applies to a crime that is a simple
13 misdemeanor offense under section 123.47 or chapter 321, and
14 to a crime that is a first offense of operating a motor vehicle
15 while intoxicated under section 321J.2, subsection 1.

16 Sec. 2. Section 135C.33, subsection 8, Code 2013, is amended
17 by adding the following new paragraph:

18 NEW PARAGRAPH. *Od.* (1) If a student's clinical education
19 component of the training program involves children or
20 dependent adults but does not involve operation of a motor
21 vehicle, and the student has been convicted of a crime listed
22 in subparagraph (2), but does not have a record of founded
23 child or dependent adult abuse, and the training program has
24 requested an evaluation in accordance with paragraph "c"
25 to determine whether the crime warrants prohibition of the
26 student's involvement in such clinical education component, the
27 training program may allow the student's participation in the
28 component for not more than sixty days pending completion of
29 the evaluation.

30 (2) Subparagraph (1) applies to a crime that is a simple
31 misdemeanor offense under section 123.47 or chapter 321, and
32 to a crime that is a first offense of operating a motor vehicle
33 while intoxicated under section 321J.2, subsection 1.

34 Sec. 3. STUDY OF BACKGROUND CHECK IMPROVEMENTS
35 AND REQUIREMENTS FOR CERTAIN PROVIDERS OF HOME HEALTH

1 SERVICES. The department of inspections and appeals, in
2 conjunction with the departments of human services and
3 public health, shall study the potential for applying new
4 technologies and other improvements that may be implemented for
5 the current processes of performing and evaluating child and
6 dependent adult abuse and criminal record checks of persons
7 providing health care services. In addition, the study shall
8 consider applying record check requirements to individuals and
9 agencies providing home health services that are not subject
10 to certification, licensing, or other regulation by state
11 government. The department shall submit a report with findings
12 and recommendations to the governor and general assembly on or
13 before December 15, 2013.

14 EXPLANATION

15 This bill relates to evaluation of the results of certain
16 criminal record checks of prospective health care employees by
17 the department of human services (DHS).

18 Code section 135C.33, relating to criminal and child or
19 dependent adult abuse record checks of employees of health
20 care facilities and certified nurse aide student trainees, is
21 amended. The record check requirement applies to prospective
22 employees of nursing facilities, residential care facilities,
23 and intermediate care facilities for persons with mental
24 illness or a developmental disability, various in-home service
25 providers, hospices, Medicaid waiver service providers, elder
26 group homes, and assisted living programs. The requirement
27 also applies to nurse aide students pursuant to Code section
28 152.4(3)(d).

29 Current law provides that if it is determined that a
30 person being considered for employment has been convicted of
31 a crime under a law of any state, the department of public
32 safety shall notify the licensee that upon the request of the
33 licensee DHS will perform an evaluation to determine whether
34 the crime warrants prohibition of the person's employment in
35 the facility.

1 The bill allows for conditional employment of not more than
2 60 calendar days of the prospective employee who was convicted
3 of a crime specified by the bill pending completion of the DHS
4 evaluation. The bill does not apply to employment involving
5 the operation of a motor vehicle or to persons with a record
6 of founded child or dependent adult abuse. The crimes covered
7 by the bill are limited to simple misdemeanor offenses under
8 Code section 123.47, involving purchase or possession of an
9 alcoholic beverage by a person who is not legal age, and
10 Code chapter 321, relating to motor vehicles and laws of the
11 road, and first offenses of operating a motor vehicle while
12 intoxicated under section 321J.2, subsection 1 (a serious
13 misdemeanor).

14 A similar new conditional employment exception is applied by
15 the bill to students applying for, enrolled in, or returning to
16 a certified nurse aide training program.

17 The department of inspections and appeals, in conjunction
18 with DHS and the department of public health, is required
19 to study the potential for applying new technologies and
20 other improvements that may be implemented for the current
21 processes of performing and evaluating child and dependent
22 adult abuse and criminal record checks of persons providing
23 health care services. In addition, the study is required to
24 consider applying record check requirements to individuals and
25 agencies providing home health services that are not subject
26 to certification, licensing, or other regulation by state
27 government. The department is required to report with findings
28 and recommendations to the governor and general assembly on or
29 before December 15, 2013.